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SERVICE DATE - FEBRUARY 3, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 591X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN CLARK AND FLOYD COUNTIES, IN

Decided: February 2, 2004

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 3.8-mile line of railroad between milepost B-50.5 near Clarksville and milepost B-54.3 near New Albany, in Clark and Floyd Counties, IN. Notice of the exemption was served and published in the Federal Register on July 9, 2001 (66 FR 35826-27).¹ On August 7, 2001, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding and authorized a 180-day period for the Civil Town of Clarksville, IN, the City of New Albany, IN, and the City of Jeffersonville, IN (collectively Proponents), to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding.² At the request of CSXT, the negotiating period under the NITU was extended several times; the latest extension is scheduled to expire on February 4, 2004.

On January 14, 2004, CSXT filed a request for an extension of the NITU negotiating period until August 4, 2004. CSXT states that the parties (CSXT and Proponents) are unable to complete negotiations by February 4, 2004, and that an extension of the negotiating period is necessary to finalize negotiations. Additionally, CSXT requests an extension of the consummation notice filing deadline until October 4, 2004.³

¹ The July 9 notice stated that, if consummation has not been effected by CSXT's filing a notice of consummation by July 9, 2002, and there are no legal or regulatory barriers to consummation at that time, the authority to abandon would automatically expire. The pendency of conditions, including trail use conditions, serves to extend the deadline for consummation of the abandonment until 60 days after the expiration, satisfaction, or removal of the legal or regulatory barrier to consummation.

² The August 7 decision also imposed several environmental conditions.

³ Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

Because an extension of the consummation notice filing deadline and the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), and the rail carrier has indicated its willingness to continue negotiations by requesting an extension, the requested extensions will be granted. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). Accordingly, the NITU negotiation period will be extended to August 4, 2004,⁴ and the consummation notice filing deadline will be extended to October 4, 2004.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CSXT's request to extend the NITU negotiating period and its request for an extension of time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended to August 4, 2004.
3. The authority to abandon must be exercised on or before October 4, 2004.
4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

⁴ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company— Abandonment Exemption—In Jackson, Victoria and Wharton Counties, TX, STB Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).